

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

BITUMINOUS CASUALTY
CORPORATION,

Plaintiff,

v.

Case No: 3:09-cv-00060

WALDEN RESOURCES, LLC, AMWES
EXPLORATION, LLC, DANIEL POTTS,
ZTX DRILLING, LLC, JONATHAN D.
VANN, LEXINGTON INSURANCE
COMPANY, NATIONAL POLLUTION
FUNDS CENTER, UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, WILD WELL CONTROL, INC.,
MARLOW VOLUNTEER FIRE
DEPARTMENT, SUPERIOR WELL
SERVICES, INC., GRIFFITH SERVICES,
LLC, BLOWOUT TOOLS, INC.,
UNIVERSAL WELL SERVICES, INC.,
MILLER PETROLEUM, INC., FAY
PORTABLE BUILDINGS, INC.,
ENGINEERING CONSTRUCTION
SERVICES, INC., DIG IT UP
EXCAVATION CO., VOLUNTEER
TRENCHING, BILLINGS CRANE &
MECHANICAL, INC., B. J. SERVICES
COMPANY, NORTH EAST MUD
SERVICES COMPANY, LLC, L&D WELL
SERVICE, EAST TENNESSEE
CONSTRUCTION, QUALITY SUPPLY,
BRAD PENNINGTON, ROBERT KELLY,
DEBRA KELLY, AND CLIFFORD N.
HENDERSON, JR.,

Defendants.

AGREED ORDER OF DISMISSAL AS TO DEFENDANT ENGINEERING
CONSTRUCTION SERVICES, INC.

It appearing to the Court from the signatures hereto that:

1. As set forth in the complaint for declaratory judgment, interpleader and permanent injunctive relief filed in this action, Engineering Construction Services, Inc. was joined pursuant to 28 U.S.C. § 2201, Rule 57 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1335 and Rule 22 of the Federal Rules of Civil Procedure, in that Bituminous Casualty Corporation felt that pursuant to the Declaratory Judgment Act and Federal Interpleader Act Engineering Construction Services, Inc. might be affected by the declarations made by this Honorable Court, and based upon the desire of Bituminous Casualty Corporation that Engineering Construction Services, Inc. be bound by the declarations made by this Honorable Court as to the issues raised in this action;

2. Engineering Construction Services, Inc. has reviewed the complaint for declaratory judgment, interpleader and permanent injunctive relief, and the issues raised therein;

3. Engineering Construction Services, Inc. affirmatively states that its claim has been paid, that it asserts no interest in the determinations requested in the complaint for declaratory judgment, interpleader and permanent injunctive relief, and that it agrees that it will not contest the declarations sought by Bituminous Casualty Corporation in the complaint for declaratory judgment, interpleader and permanent injunctive relief; and

4. Consequently, Bituminous Casualty Corporation and Engineering Construction Services, Inc. have agreed that Engineering Construction Services, Inc. may be dismissed from this case without prejudice and need not participate further in this litigation.

Based upon the representations contained herein, this Court dismisses Engineering

Construction Services, Inc. from this matter upon the representations that it will claim no interest under the Declaratory Judgment Act and Federal Interpleader Act in the outcome of the determinations sought by Bituminous Casualty Corporation in the complaint for declaratory judgment, interpleader and permanent injunctive relief.

ENTERED this 8th day of April, 2009.

s/ Thomas A. Varlan

UNITED STATES DISTRICT JUDGE

APPROVED FOR ENTRY BY:

s/ Benjamin J. Miller

PARKS T. CHASTAIN

Registration No. 13744

BENJAMIN J. MILLER

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ENGINEERING CONSTRUCTION SERVICES, INC.

By: 

Title: President & CEO